



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313**

**Joe Manchin III
Governor**

Secretary

January 26, 2005

Dear Ms. _____;

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 18, 2003. Your hearing request was based on the Department of Health and Human Resources' action to, decrease the amount of your Food Stamps and, require a spenddown for the Medicaid Program..

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility and benefit levels for Food Stamps and SSI-Related Medicaid are determined based on current regulations. One of these regulations specifies that,

"Unearned income from Annuity Payments is counted for Food stamps and SSI-Related Medicaid." (West Virginia Income Maintenance Manual 10.3 J ANNUITY PAYMENTS).

The information submitted at the hearing revealed: You were given all disregards and deductions for the Food Stamp and Medicaid Programs.

It is the decision of the State Hearing Officer, to uphold the action of the Department to (1) Decrease the amount of the Food Stamps and; (2) Require a spenddown for Medicaid Benefits based on the income from the annuity payments.

Sincerely,

Ray B. Woods, Jr., M. L. S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Brent R. Bragg, ESW

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: _____

ADDRESS: _____

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION

This is a report of the State Hearing Officer resulting from a fair hearing concluded on January 26, 2005, for Ms. _____

This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was originally scheduled on June 18, 2004, on a timely appeal filed May 10, 2004.

It should be noted here that, Ms. _____'s Food Stamp Benefits were decreased prior to the fair hearing.

All persons giving testimony were placed under oath. A pre-hearing conference was not held between the parties.

II. PROGRAM PURPOSE

The programs entitled Food Stamps and SSI-Related Medical Assistance Only are set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households". This is accomplished through the issuance of food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

SSI Related Medicaid is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as either aged, disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS

_____ Claimant
Brent R. Bragg, Income Maintenance Worker - [REDACTED] District DHHR Office

Presiding at the hearing was, Ray B. Woods, Jr., M. L. S., State Hearing Officer and; A member of the State Board of Review.

IV. QUESTION(S) TO BE DECIDED

Did the Department properly determine that Ms. _____'s Food Stamp Benefits should be decreased and; Secondly, Is it necessary for Ms. _____ to meet a spenddown for Medicaid Benefits?

V. APPLICABLE POLICY

West Virginia Income Maintenance Manual 10.3 J ANNUITY PAYMENTS; WVIMM Section 10.4 B INCOME DISREGARDS AND DEDUCTIONS; WVIMM Section 10.4 C DETERMINING ELIGIBILITY AND BENEFIT LEVEL.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D-1 Scheduling Notice dated 05/10/04
- D-2 Hearing Request Form dated 04/18/04
- D-3 Hearing/Grievance Record Information
- D-4 Food Stamp Decrease Letter dated 04/16/04
- D-5 Verification Checklist - Spenddown Medicaid Letter dated 05/05/04
- D-6 Screening Form dated 01/26/04
- D-7 Screening Form dated 02/05/04
- D-8 Verification Checklist - Spenddown Medicaid Letter dated 02/05/04
- D-9 Copies of cancelled checks for expenses paid by boyfriend
- D-10 Excerpts from Divorce Decree
- D-11 Verification Checklist - Spenddown Medicaid Letter dated 02/25/04
- D-12 Mortgage Verification - CITI Financial
- D-13 Annuity Verification - AIG Annuity Insurance Company
- D-14 E-mail message regarding a doctor's statement for Ms. _____
- D-15 Memorandum from WORKFORCE West Virginia dated 03/25/04
- D-16 Letter from Division of Rehab Services dated 04/12/04
- D-17 MRT Recording Log dated 02/05/04 – 03/29/04
- D-18 WVIMM Section 10.3 J ANNUITY PAYMENTS
- D-19 WVIMM Section 10.4 B INCOME DISREGARDS AND DEDUCTIONS
- D-20 WVIMM Section 10.4 C DETERMINING ELIGIBILITY AND BENEFIT LEVEL
- D-21 Hearing Summary
- D-22 GroupWise Messages re: Scheduling

VII. FINDINGS OF FACT

- Mr. Bragg provided the following Hearing Summary:

“ _____ case # _____ has requested a fair hearing based on the decrease in her food stamps and the creation of a spenddown for her Medicaid case. The client was initially approved for food stamps based on zero income that she had indicated at the interview. Pending client for a copy of her divorce decree and when it was received, it indicated that in the divorce she receives the annuity from the death of her son and that she has life estate in the former marital residence and that she is to make the mortgage payment of the home.

Client's food stamps then decreased from \$141.00 monthly to \$96.00 monthly and giving the food stamp case credit for the \$733.76 mortgage payment. The annuity if \$723.00. This has also caused the Medicaid to have a spenddown of \$3,018.00 for a six month period."

- Ms. _____ disputed the testimony of Mr. Bragg. She did not provide a copy of the Divorce Decree for review.
- The decision was given at the conclusion of the fair hearing.

VIII. CONCLUSIONS OF LAW

- West Virginia Income Maintenance Manual 10.3 J ANNUITY PAYMENTS states in part, "Unearned income from Annuity Payments is counted for Food stamps and SSI-Related Medicaid."
- WVIMM Section 10.4 B INCOME DISREGARDS AND DEDUCTIONS states in part, "The following is the only allowable disregards and deductions for the Food Stamp Program: Earned Income Disregard; Standard Deduction; Dependent Care Deduction; Child Support Deduction; Homeless Shelter Standard Deduction; Medical Expenses and; Shelter/Utility Deduction."

IX. DECISION

Ms. _____ did not provide any legal documents stating she did not receive a monthly annuity payment. Mr. Bragg gave Ms. _____ all allowable deductions and disregards for the Food Stamp Program. The unearned income from the annuity requires Ms. _____ to meet a spenddown to be eligible for SSI-Related Medicaid Benefits.

It is the decision of this State Hearing Officer, to uphold the action of the Department to (1) Decrease the amount of the Food Stamps and; (2) Require a spenddown for Medicaid Benefits based on the income from the annuity payments.

X. RIGHT OF APPEAL

See Attachment.

XI. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.